

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 TANYA NADINE QUINATA,

11 v.
12 Petitioner,

13 STATE OF WASHINGTON,
14

15 Respondent.

CASE NO. C17-5268RBL

ORDER

15 THIS MATTER is before the Court on the following motions: Petitioner Quinata's
16 Motion for Leave to Appeal *in forma pauperis* [Dkt. #16]; her Motion for appointment of
17 counsel on appeal [Dkt. # 17]; and her Motion for additional claims and documents on appeal
18 [Dkt. #18].

19 This Court adopted [Dkt. # 13] the Magistrate Judge's Report and Recommendation
20 [Dkt. #11] and dismissed this § 2254 petition with prejudice, on both procedural and substantive
21 bases.

1 The Court must determine whether Quinata's *in forma pauperis* status should continue on
2 appeal, or whether his appeal is frivolous or taken in bad faith. *See* 28 U.S.C. §1915(c). For the
3 reasons outlined in the Magistrate Judge's thorough Report and Recommendation (and the state
4 court determinations upon which it was based), Quinata's appeal is frivolous and this Court will
5 not continue her *in forma pauperis* status on appeal. Because she has not made a substantial
6 showing of the denial of a constitutional right, the Court will not issue a Certificate of Appeal. 28
7 U.S.C. § 2253(c)(2).

8 Quintana seeks the appointment of counsel on appeal. Her motion was filed in this Court
9 although it appears to be addressed to the Ninth Circuit. The Court will appoint counsel only
10 under "exceptional circumstances." *Id.*; *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
11 1986). "A finding of exceptional circumstances requires an evaluation of both the likelihood of
12 success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the
13 complexity of the legal issues involved." *Wilborn*, 789 F.2d at 1331 (internal quotations
14 omitted). These factors must be viewed together before reaching a decision on whether to
15 appoint counsel under § 1915(e)(1). *Id.* Quinata's Motion for the Appointment of Counsel on
16 appeal [Dkt. #17] does not meet this standard, and it is DENIED.

17 Finally, Quinata also asks the Ninth Circuit for "additional claims and documents on
18 appeal." The exact nature of this request is unclear, but she asks the Ninth Circuit to direct this
19 Court to send to her "any additional claims it did not specify." The entire record in this case is
20 //

21 //

22 //

23 //

24

1 available on appeal. If and to the extent Quinata's request is addressed to this Court, it is
2 DENIED.

3 IT IS SO ORDERED.

4 Dated this 12th day of February, 2018.

5 
6

7 Ronald B. Leighton
United States District Judge

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24